

STATE OF HAWAII
2011 REAPPORTIONMENT COMMISSION
NOTICE OF REAPPORTIONMENT COMMISSION MEETING

Date: Thursday, March 8, 2012
Time: 1:30 PM
Place: State Capitol, Conference Room 329
415 South Beretania Street
Honolulu, Hawaii 96813

AGENDA

- I. Call to Order – Chair
- II. Roll Call and Determination of a Quorum
- III. Approval of Minutes for meeting on February 29, 2012
- IV. Public Testimony – Any interested person may submit data, views or arguments on any agenda item.
- V. Input from Advisory Councils - Discussion and action, if appropriate.
- VI. Executive Session

Pursuant to HRS §92-5(a)(4) to consult with the Commission's attorney on questions and issues pertaining to the Commission's powers, duties, privileges, immunities and liabilities regarding *Solomon* and *Matsukawa* litigation, and Hawaii Supreme Court Opinion and Orders regarding new state legislative reapportionment plan. Discussion and action, if appropriate.

Pursuant to HRS §92-5(a)(4) to consult with the Commission's attorney on questions and issues pertaining to the Commission's powers, duties, privileges, immunities, and liabilities regarding the retention of outside or independent legal counsel for the Reapportionment Commission. Discussion and action, if appropriate.

Notice of 2011 Reapportionment Commission Meeting

March 8, 2012

Page 2

- VII. Hawaii Supreme Court Lawsuits – Update by Reapportionment Commission attorney regarding *Solomon* and *Matsukawa* litigation, and Hawaii Supreme Court Opinion and Orders regarding new state legislative reapportionment plan. Discussion and action, if appropriate.
- VIII. Reapportionment Commission Staff Report – Staff report on status of Commission request for emergency appropriation for FY2012 and any additional tasks necessary to complete the 2011 reapportionment project. Discussion and action, if appropriate.
- IX. State legislative reapportionment plan, including plan for staggering of Senate terms – deliberation and decision-making.
- X. Recommendations for the Supplement to the Final Report – discussion and action, if appropriate.
- XI. Adjournment

THE COMMISSION MAY ELECT TO CONSULT WITH COUNSEL IN EXECUTIVE SESSION PURSUANT TO SECTION 92-5, HAW. REV. STAT. IF YOU REQUIRE SPECIAL ASSISTANCE OR AUXILIARY AIDS AND/OR SERVICES TO PARTICIPATE IN THE PUBLIC HEARING PROCESS OF THE REAPPORTIONMENT COMMISSION, PLEASE CONTACT THE OFFICE OF ELECTIONS AT LEAST 48 HOURS PRIOR TO THE HEARING SO ARRANGEMENTS CAN BE MADE. FOR FURTHER INFORMATION, PLEASE CALL THE OFFICE OF ELECTIONS AT 453-8683 OR 1-800-442-8683 FROM THE NEIGHBOR ISLANDS.

**STATE OF HAWAII
2011 REAPPORTIONMENT COMMISSION**

**MINUTES OF THE REGULAR MEETING OF THE
2011 REAPPORTIONMENT COMMISSION**

February 29, 2012
2:00 pm

State Capitol, Room 423
Honolulu, Hawaii 96813

Commissioners Present:

Victoria S. Marks, Chairperson
Calvert Chipchase IV
Clarice Hashimoto
Harold Masumoto
Elizabeth Moore
Dylan Nonaka
Lorrie Stone
Anthony Takitani
Terry Thomason

Technical Staff Present:

Brian P. Aburano, Deputy Attorney General
Judy Gold, Office of Elections
Sarah R. Hirakami, Deputy Attorney General
Caryn Moran, Office of Elections
Scott Nago, Office of Elections
Kristen Oka, Office of Elections
Rex Quidilla, Office of Elections
David J. Rosenbrock, Office of Elections
Rhowell Ruiz, Office of Elections
Aaron Schulaner, Office of Elections
Karen Tam, Office of Elections
Lori Tomczyk, Office of Elections
Charles Wong, Office of Elections

Observers Present:

Alani Apio
James Arakaki, Hawaii Island Advisory Council
Quincy Bedoya, Office of Senator Shan Tsutsui

Representative Della Au Belatti
Michelle J. Bento, HGEA
Chad Blair, Honolulu Civil Beat
Jake Bradshaw
Kat Brady
Representative Della Au Bellati, State House
Kenny Choi, KITV
Henry Curtis, Life of the Land
Bart Dame
Roosevelt Freeman
Josh Frost
Anna S. Fujimori
JoAnne Georgi, Kauai Advisory Council
Todd Hairgrove
Glenn Ida, Oahu Advisory Council
Nanea Kalani, Honolulu Civil Beat
Jeff Kuwada, County Clerk, County of Maui
Representative Chris Lee, State House
Nikki Love, Common Cause
Representative Sylvia Luke, State House
Shirley Magarifuji, County of Maui
Kenneth Martyn
Janet Mason, League of Women Voters
Neal Milner
Ethann Oki, Office of Senator Malama Solomon
Kathleen Pahinui
Michael Palcic, Oahu Advisory Council
B.J. Reyes, Honolulu Star-Advertiser
Representative Scott Saiki, State House
Tom Smyth, Military Officers Association of America, Hawaii Chapter
Lance Taguchi, Deputy County Clerk, County of Maui
Glen Takahashi, City and County of Honolulu
Clifton Takamura
Shannon Wood
Lyndon Yoshioka, County of Kauai
Keanu Young

I. Call to Order

Chairperson Marks called the meeting of the 2011 Reapportionment Commission to order on February 29, 2012 at 2:07 pm.

PROCEEDINGS

II. Roll Call and Determination of a Quorum

Roll call was taken and a quorum of nine Commissioners was present.

III. Approval of Minutes for meeting on February 27, 2012

Commissioner Thomason moved to approve the minutes of the February 15, 2012 meeting. Commissioner Moore seconded the motion with no objections from the nine Commissioners present.

IV. Public Testimony – Any interested person may submit data, views or arguments on any agenda item

Mr. Takamura stated he served on the Neighborhood Board and was interested in both City and State reapportionment. He said he testified at the previous week's public hearing regarding small protruding areas and the district populations. He thanked the Commission for giving the public a good lesson in reapportionment and redistricting and that he hoped to see other concerns addressed. He said he was concerned that elections might be affected by the Court case.

Mr. Palcic stated that he was coming with a heavy heart, as he did whenever he felt democratic institutions failed the public. He said that after the Commission's 8 to 1 decision in 2011 to use the Census population as the population base, it departed from this decision without moral or legal reasoning. He said that the Technical Committee, under cover of darkness, developed a series of extractions that were arbitrary and led to bizarre and nonsensical boundaries that were not done the way he thought the lines should be drawn.

Mr. Palcic stated there was a ray of hope and submitted testimony he presented at the February 27, 2012 hearing before the Senate Labor and Judiciary Committee of Senate Bill 2112, Senate Draft 1, regarding the definition of permanent residents for reapportionment. He stated this version of the bill was recommended by the Committee for final reading on Tuesday, to go to the House for approval and to Governor for his signature. He urged the Commission to pass a resolution to support the bill so future Reapportionment Commissions would not face the same situation as the 2011 Commission faced with regard to the population base.

Representative Luke thanked the Commission for the opportunity to testify and for the work of the members and staff. She stated that the current proposed district lines on Oahu violated the Hawaii Constitution, Article IV, § 6, that

prohibits legislative districts that unduly favor a person or faction. She stated that it is a Constitutional mandate and is not permissive, and that the Commission must make every effort to cure this defect. She cited Exhibit 31 from her written testimony, which she described as showing that House members who did not support the Speaker of the House were disproportionately placed in districts with a higher percentage of voters in a new district. She stated that House members who were least affected were those who supported the Speaker.

Representative Luke also discussed Exhibit 4 of her submission, describing a report by Professor Thomas Ramsey of the University of Hawaii. She stated that his report demonstrated that House members who did not support the Speaker would have 52 percent of the voters in their new districts who were not previously in their districts, and that members who did support the Speaker would have only 24.9 percent of voters in their new districts who were not previously in their districts. She said Professor Ramsey concluded that the proposed plan was deliberately drawn to disfavor House members who did not support the Speaker. She added that districts in the proposed plan were not compact and split a number of areas, as noted in her Exhibit 33.

Representative Luke also stated that the deviations in the proposed plan exceeded permissible levels, with variances among districts of up to 20 percent. She noted that deviation among House districts on Oahu was 9.9 percent and that the high deviations overall in the State and on Oahu would violate the federal standard permitted by the *Travis vs. King* case. She noted that at a prior hearing, a question was raised whether there was an alternative to the appearance of gerrymandering and whether it was based on the population after extraction.

Commissioner Nonaka noted that only 29 of the House members were covered in Representative Luke's list and asked her to clarify if the information was reported for all House members. Representative Luke stated it was not reported in this manner. Commissioner Nonaka asked if the shaded areas shown in the exhibit were areas where dissident House members would be located. Representative Luke answered they were. Commissioner Nonaka asked about 18 members listed by Representative Belatti, of whom nine were listed in Representative Luke's exhibit. Representative Luke stated that her testimony did not address House members from the Neighbor Islands, only those from Oahu. Commissioner Nonaka stated it was not fair to consider only Oahu.

Representative Luke stated that the Commission's 2011 maps tried to be fair and that she assumed earlier that the only districts that would be affected after extraction were Oahu districts and Big Island Senate districts, with other districts remaining the same as the 2011 plan. She asked if the Technical Committee had looked only at the Big Island and Oahu. Chairperson Marks stated that the extraction was applied statewide, but that the only changes occurred on Oahu.

and the Big Island. Representative Luke stated that the position of her group of House members was that gerrymandering was the result of the Commission's proposed plan in 2012.

Commissioner Chipchase asked what method was used to determine the conclusions in Representative Luke's testimony. Representative Chris Lee stated they used mapping software on the Reapportionment website. Commissioner Nonaka asked if their analysis took into account the population growth and shifts across the island. Representative Lee stated that their plan could take these into account, without favoring a certain group of legislators. Commissioner Nonaka asked if deviations were affected. Representative Lee stated he would provide deviations. Representative Luke stated that their plan resulted in lower deviations as noted in her Exhibit 30. She stated that the Commission had made information accessible for the public to use, which was helpful if it could avoid splitting communities and targeting factions. She presented an alternative map that used the Commission's September 2011 plan as a starting point, using political borders of communities and minimal changes to the earlier plan. She stated it was unnecessary to drastically alter the September 2011 plan and that their alternative preserved the integrity of communities.

Chairperson Marks asked if Representative Luke was submitting her plan for the first time today. Representative Luke said yes, that she had not submitted it to the staff previously. Representative Luke also noted some of the exhibits attached to her testimony:

Exhibit 4 – Report by Professor Ramsey

Exhibit 5 – Documents on the history of the division in the State House

Exhibit 29 – Results if the alternative map could be used, including that almost every House district would have about 22 percent of voters not previously in the district

Exhibit 30 – Alternative plan of Rep. Lee, Luke, et al.

Exhibit 31 – The new population for incumbents' districts

Exhibit 32 – The new population using the alternative map

Exhibit 33 – Map showing how communities would be divided

Exhibit 34 – Deviations under the alternative plan

Commissioner Nonaka stated that he counted 28 or 29 House members in Representative Luke's Exhibit 29 and asked what happened to the others. Representative Luke stated she had shown Oahu only to show the factions in the State House. She added that she could supplement the chart to show minority party members in the House as well. Commissioner Takitani asked if Representatives Luke and Lee could provide the information today and Representative Lee stated he would.

Mr. Milner stated he was a retired professor of political science, having taught for 40 years at the University of Hawaii. He urged the Commission to use natural, geographical and historical boundaries in drawing districts. He questioned whether the proposed maps complied with the Constitution or unduly favored certain members. He stated that there was a faction within the House, that the continued fracture of communities favored some members over others, and that there was an unusual number of open seats where no incumbent would be running. He stated that the plan disfavored dissidents and noted Professor Ramsey's finding that there was less than a one in 1,000 chance of coming up with the Commission's proposed plan was a powerful finding. Mr. Milner stated that he believed that the Commission was still in violation of the Constitution for favoring one faction and penalizing the other. In response to Chairperson Marks, Mr. Milner confirmed that he was referring to Professor Ramsey's report attached to Representative Luke's testimony.

Commissioner Masumoto asked what assumptions were used in Professor Ramsey's study. Mr. Milner stated they were simple and quite powerful. Commissioner Nonaka asked whether the study had considered the shift in population and the loss of or stable population in town that were factors in the proposed plan. Mr. Milner stated that the Ramsey report raised the concern that the proposed plan did not happen by chance and deserved another look.

Commissioner Takitani asked what the chances were that supporters of the Speaker would have the lowest percentage of a new voter population in their districts. Mr. Milner stated he did not know and that the populations would have to be calculated. Commissioner Chipchase stated that the alternative plan did split communities. Mr. Milner stated that it made strides in other areas, and that his focus was on the proposed plan's effect on only a specific group of House members.

Representative Belatti presented written testimony concerning the proposed boundaries of House Districts 21, 22 and 23, extending as far as Kaimuki and Kapahulu, and House Districts 23, 24 and 25, going toward lower Makiki and Dowsett Highlands. She stated that the proposed plan would strip her of a district she had represented for six years. She also commented that House Districts 33 and 34 as proposed would split Aiea with a portion of Pearl City and force two incumbents to run against each other.

Ms. Mason presented written testimony on behalf of the League of Women Voters of Hawaii, stating that the League believed in reapportionment under the U.S. and State Constitutions. She stated the League was pleased that the Commission responded to its requests for maps and information and asked if population data could be furnished in a form other than on the large maps. She stated that the League was still concerned about the 9.94 percent deviation for

Oahu House districts. She stated that although State reapportionment cases allowed deviations under 10 percent, the League was concerned that the proposed plan was so close to that level.

Regarding the permanent resident population, Ms. Mason noted that Reapportionment Commissions have struggled with the term and that if the issue was not addressed, it would continue to be challenged in the future. She said she applauded efforts to clarify the definition of the permanent resident population and that the extraction of over 108,000 persons was arduous but done in a rational manner. She stated there was concern that Commissions would have to rely on information that the military and other groups were not obligated to provide. She stated there were implications for House and Senate boundaries but that it was difficult to reach a conclusion.

Ms. Mason said it was true that the 108,000 persons extracted would not be counted for representation in any legislature since they were only counted by the Census in Hawaii. She stated another concern that the large number of non-permanent residents would diminish representation of permanent residents who lived in the same districts, which led to the challenge of the plan. She stated that the League believed it would be safest to use federal population data in reapportionment and that the plan was critical to providing representation.

Ms. Love testified on the concerns of Common Cause that there was not enough notice of the meeting, that all areas identified previously as having problems were not fixed, and that the organization was making recommendations to the Commission.

Ms. Brady stated that she appreciated the Commission's hard work on complex issues. She stated she did not agree with all decisions made but appreciated the community service of the Commission. She stated her concern that boundaries were not drawn by natural boundaries but rather in accordance with political interests. She stated some of these were obvious, noting concerns regarding a political action committee formed previously by the Speaker of the House and others including a current member of the Commission. She stated that public perception matters and appearance of a conflict of interest should be avoided. She said she hoped others would engage in the process if the result looked unfair and that justice should be blind.

Mr. Curtis presented written testimony of Life of the Land and stated that he was concerned that House committees were trying to reduce sunshine laws at the county level and environmental laws while increasing the ability of some to make large donations and unfairly influence the process. He stated it was important to have a balance that the Commission appeared to comprise four different factions, plus the Chair. He said there is also a balance of appointees of the

State House and State Senate. He stated he observed the 2001 Reapportionment and there were some interests protected in that process. He said that there were dissidents who were not protected and yet it was important to have different voices heard. He urged the Commission to form districts along natural boundaries to balance keeping different groups in the body, rather than trying to have the process coalesce around dominant powers.

V. Input from Advisory Councils - Discussion and action, if appropriate

On behalf of the Kauai Advisory Council, Ms. Georgi thanked the Commission for their work. Commissioner Takitani asked Ms. Georgi to confirm that the Kauai Advisory Council took a position on the staggering of Senate terms. Ms. Georgi stated that the Council took a position supporting a two-year Senate term for 2012, rather than a four-year term.

Oahu, Maui and Hawaii Advisory Councils – No reports.

VI. Executive Session

Pursuant to HRS §92-5(a)(4) to consult with the Commission's attorney on questions and issues pertaining to the Commission's powers, duties, privileges, immunities and liabilities regarding Solomon and Matsukawa litigation, and Hawaii Supreme Court Opinion and Orders regarding new state legislative reapportionment plan. Discussion and action, if appropriate.

Pursuant to HRS §92-5(a)(4) to consult with the Commission's attorney on questions and issues pertaining to the Commission's powers, duties, privileges, immunities, and liabilities regarding the retention of outside or independent legal counsel for the Reapportionment Commission. Discussion and action, if appropriate.

At 3:02 pm, Chairperson Marks moved that the Commission go into Executive Session to consult with its attorney regarding status of the lawsuit and other issues regarding the Commission's powers, duties, privileges and so forth. Commissioner Nonaka seconded the motion, with no objections from nine Commissioners present. At 4:15 pm, the Commission returned into regular session.

VII. Hawaii Supreme Court Lawsuits – Update by Reapportionment Commission attorney regarding *Solomon* and *Matsukawa* litigation, and Hawaii Supreme Court Opinion and Orders regarding new state legislative reapportionment plan. Discussion and action, if appropriate.

Deputy Attorney General Aburano reported that the Petitioners' Motion for Attorney Fees and Costs was still pending. He stated that on January 4, 2012, the Court ordered the Commission to prepare and file its final plan, but did not specify filing with the Chief Election Officer and that in an abundance of caution, he anticipated filing it both with the Chief Election Officer and the Hawaii Supreme Court. He stated that the Court filing would not be to request the Court's approval or to invite or require objections of the Petitioners, but rather filing would be an abundance of caution because it was not clear what the Court meant in its order about filing of the plan.

VIII. Reapportionment Commission Staff Report – Staff reports on public hearings, procedures to compute staggering of State Senate terms after new state legislative reapportionment plan is approved, status of Commission request for emergency appropriation for FY2012, and any additional tasks necessary to complete the 2011 reapportionment project. Discussion and action, if appropriate.

Project Manager Rosenbrock stated that he had not received any further information since his report on February 27 that the Commission's emergency appropriation request had been forwarded to the Governor for consideration.

Project Manager Rosenbrock noted that the staff will again request the Commission's permission to make minor housekeeping changes to the adopted reapportionment plan to fix pockets, as reported at the February 27 meeting. He again noted that the staff would complete publications and would close the Reapportionment Project Office at the Capitol in early March.

Mr. Jones presented slides showing the number of persons extracted from proposed Senate and House districts. He stated that the largest districts were Senate District 15 and House District 50 and that he would try to post the proposed plan on the Reapportionment website for public viewing without a login account.

Mr. Jones showed slides to explain the process for determining Senate staggered terms, noting it was based on the districts used for the 2010 election. He described the process of designating every census block in Hawaii as "Yes" if the block participated in a regular Senate election in 2010 and "No" if the block did not. When the proposed Senate district boundaries were overlaid, the population in census blocks in each proposed Senate district provided a count of population that did or did not have a regular primary or primary and general Senate election. He noted two districts were marked for special vacancy elections that would not be counted as regular elections. The 12 proposed Senate districts with the lowest counts would be the seats with two-year terms after the 2012 elections.

Chairperson Marks asked Deputy Attorney General Aburano to address the issue of regular elections that arose in deliberation of the 2011 plan. Mr. Aburano commented on the legislative history for the Constitutional amendment in 2000, noting that the Standing Committee Reports indicated that special vacancy elections were not regular elections and made a special point of differentiating the two types of elections for the purpose of staggered terms. He stated that the Legislature strongly indicated that special elections were not regular elections and that the reports gave a specific example that if a district had a regular and not a special Senatorial election in the year 2000, and the term was shortened to two years because of reapportionment, then in the year after reapportionment or 2002 in the example, the person elected would have a four-year term. He stated that he believed the information was covered previously by the Commission.

Commissioner Takitani pointed out that the Legislature previously did not include special vacancy elections with regular elections. Mr. Aburano clarified that he had used the term "special elections," which was used by the Legislature. Commissioner Takitani asked if the Legislature used the term "special vacancy elections" and Mr. Aburano responded that the language used was "special elections" only. Commissioner Takitani asked if there was a definition in statute of a special election. Mr. Aburano stated he did not know if there was such a definition in 2000. Commissioner Takitani asked if there was a definition now and Mr. Aburano noted that he (Commissioner Takitani) had shown the definition to him of special primary and special general elections, and they were not the same as regular elections that were usual, regular and recurring elections with four-year terms for the Senate. He added that he believed this was how the Legislature was differentiating between regular elections and special elections whether due to a vacancy or other circumstance.

Commissioner Takitani asked whether it was true that a reading of the special election statute only refers to an election that does not have a primary election. He asked whether it was true that all Senate elections had primary and general elections, unless a candidate had no opposition in the general election. Mr. Aburano stated he believed Commissioner Takitani was referring to the provision that any election held by law but not preceded by an election to nominate those candidates whose names appear on the ballot was a special election. He noted that these were provisions in law for special primary elections and special general elections, but there was no definition of regular elections. He said the ones he mentioned were all in a category of regular elections but that was an interpretation. He said he believed it was apparent from the foregoing and consistent with the view of his office.

Commissioner Takitani asked if Mr. Aburano would disagree that for a special election, there was no primary election involved. Mr. Aburano stated it was

possible, but could only convey the previous definitions in law. Mr. Takitani asked if the issue was addressed anywhere else in the statutes. Mr. Aburano said he was not an expert on the issue and could not indicate more than the differentiation between the terms in the Constitution. He said the term "regular election" referred to the regular and recurring Senate terms and that in his opinion, any other term such as a special primary or general election fell into the category of a special election. Commissioner Takitani asked if the Commission was then relying solely on the opinion of Deputy Attorney General Aburano on the subject, without any statute, legislative history or case law supporting Mr. Aburano's opinion. Mr. Aburano stated he did not know if there was any case law and that he disagreed there was no legislative history, based on his previous response concerning the Standing Committee Reports on the legislation indicating that a special election is not included in a regular election when determining two-year and four-year Senate terms. Commissioner Takitani stated that Deputy Attorney General Aburano was adding the conclusion that the terms as defined were to be used in connection with Senate terms. Mr. Aburano stated he did not know what else a regular election would be other than a four-year term and that there was a clear difference between regular and special elections, with the latter being those held outside the regular four-year election cycle. He again noted that the legislative history referred to regular, four-year terms for Senators.

Commissioner Takitani stated that he did not believe the definition of special elections, special primary or special general elections applied to the process being considered by the Commission. He stated that for Kauai, the Constitution clearly states that insofar as practicable, the Commission shall assign the two-year terms to Senate seats so that the resident population of each Senate district shall have no more than two regular Senate elections for the seat within a six-year period beginning in the even-numbered years. He stated that the island of Kauai would have Senate elections in 2010, 2012 and 2014; that Kauai had the largest Senate district, and that Kauai appeared on the handout of staggered term calculations as having had no Senate election in 2010 when, in fact, they had a primary and general election. Chairperson Marks noted that the 2010 Kauai Senate election was to fill a vacancy. Commissioner Takitani stated there was nothing in the law that addressed an election to fill a vacancy.

Deputy Attorney General asked whether special elections were held for any reason other filling a vacancy for the Senate. Commissioner Takitani stated he did not know, but Kauai had a Senate election when the 2010 elections were held. Chairperson Marks stated that there was a disagreement about the calculation of terms. Commissioner Takitani stated there were eight Neighbor Island Senators and six of them would get two-year terms and two would get four-year terms after reapportionment. Mr. Aburano stated he did not know the practical effect of the law, but could comment only on the legislative history of

the Constitutional provision as he and others in the Department of the Attorney General understood the record. He stated the meaning they took from the history of this provision was that special elections did not count as regular elections. Commissioner Takitani again stated that a special election was one that did not have a primary. Chairperson Marks stated that Commissioner Takitani made this point last fall. He responded that he was making it clearer this time and that the Commission appeared to be taking some liberty with the term that he did not think was permissible.

Chairperson Marks asked for clarification that the Kauai Senate seat was counted as not having a regular election in 2010 because it was an election to fill a vacancy. Mr. Jones and Project Manager Rosenbrock stated that in 2010, both Senate District 7 and 22 were to fill vacancies when the incumbent resigned to run for another State office and were marked as "SV" (special vacancy) on the worksheet for Senate staggered terms.

Commissioner Takitani stated that he did not know what happened to the other Senate districts which became vacant since one had a term that was ending after four years. Project Manager Rosenbrock clarified that the term for Senate District 15 ended in 2010, but the term for Senate Districts 7 and 22 did not. Commissioner Takitani asked what the results for Senate staggered terms would have been if the elections in Senate Districts 7 and 22 were counted as regular elections. Project Manager Rosenbrock stated he did not know. Commissioner Takitani stated that the same argument applied for the other districts, and the numbers should be submitted for the two affected Senate districts and that result should indicate which 13 Senators got four-year terms.

Chairperson Marks referred to the worksheet for Senate staggered terms, noting calculation based on the Deputy Attorney General's opinion, and moved that the Commission adopt the plan for staggered Senate terms for the 2012 election as set forth in the worksheet. Commissioner Chipchase seconded the motion.

Mr. Jones completed his presentation by showing census blocks in 2010 Senate districts that did or did not have regular Senate elections, followed by the totals of population in each proposed new Senate district that did or did not have a Senate election in 2010. He stated that the new Senate districts with the lowest population that had a regular Senate election in 2010 were those that would have two-year terms in the 2012 election. The remaining 13 Senate districts would get four-year terms in the 2012 election. He noted that the worksheet was posted online with meeting materials. Chairperson Marks asked if changes to the House plan would affect the staggering of Senate terms. Project Manager Rosenbrock stated it would not be affected. Mr. Jones also briefly noted the schedule to complete the 2011 Reapportionment Project after the Commission's final approval of the plan.

Commissioner Takitani asked whether the Commission could vote on Senate staggered terms if it had not yet approved the plan. Chairperson Marks stated that was why she was moving for approval of the plan. Project Manager Rosenbrock reiterated that if the Senate districts did not change, then the plan for Senate staggered terms would remain the same as presented. Commissioner Takitani asked whether the Commission had voted on the maps and could take action on the Senate staggered terms if it had not approved the maps. Chairperson Marks answered it had not voted and that the only changes for House districts were still being considered. Commissioner Takitani stated he did not think the Commission could vote on the Senate staggered terms until it voted on the Senate plan. Commissioner Stone stated that it would not prejudice the Commission to wait until the final plan was approved before voting on Senate staggered terms. Chairperson Marks asked if there was any objection if she withdrew her motion to approve the plan for Senate staggered terms. There being no objection, Chairperson Marks withdrew her motion and Commissioner Chipchase withdrew his second.

IX. State legislative reapportionment plan, including plan for staggering of Senate terms – deliberation and decision-making.

Chairperson Marks acknowledged that the Commission received new proposed maps for Oahu on February 29. She stated that the Commission presented its maps and plan for consideration on February 15, followed by public hearings and modifications to the maps on February 27 based on public comment. She stated that she would have preferred new suggestions earlier than today to allow the Technical Committee time to review the proposed changes.

Chairperson Marks moved, seconded by Commissioner Thomason, that the maps received during testimony at the meeting be reviewed and evaluated by the Technical Committee, for a report back to the Commission.

Commissioner Masumoto stated there were two public hearings on February 21 and 22, and public comment at the Commission's last meeting, and this was the first time the Commission had seen the alternative map. Chairperson Marks stated there were maps submitted for the individual areas of Ewa Beach and Newtown that did not address their effect on surrounding districts. Commissioner Masumoto said the alternative map presented today was the first time they had seen a map of the entire island and that he did not object to treating it differently by looking at it now.

Commissioner Nonaka stated he did not think it was necessary to look at another map other than to satisfy a group. He said the alternative map would equally violate the standards in law, were done without public hearings and without going

out for public comments. He stated everyone had a long period to submit proposals and he did not think it was a good procedure to consider a new map at the last minute. He questioned what would happen if others brought maps they wanted at the next meeting, and that the alternative presented was for island-wide changes, not minor fixes. He said it was not fair to those who got their suggestions in a long time ago and did not look into the implications for various populations.

Commissioner Nonaka stated he did not agree with comments that accused the Commission of favoring a group of legislators. He stated that he reviewed the statistical analysis submitted in testimony but that it did not consider many factors considered by the Technical Committee. He added it was not fair to do an analysis without including the Neighbor Island since such limited data would skew results. He stated that the alternative map did not account for population movement and extraction that caused a loss of an urban Honolulu district to the growth in West Oahu. He said that if the number of districts with incumbents was reduced, it was certain that people would disagree on where changes should occur even if changes were required due to population movement. He stated that the affected House members reported that they lived in about a one-mile radius in town and, given the population growth in West Oahu, a new plan would likely be less than ideal for the entire group.

Commissioner Nonaka stated he did not appreciate the accusation that the proposed plan constituted gerrymandering or hurting a particular faction. He noted that the Commission was a bipartisan body and it was ridiculous to suggest that the members from both parties got together to harm a faction. He stated he would not be participating in a process if it were to do it for the Speaker of the House and that if it did happen, the partisan members of the Commission would call the others on it. He stated that the process was not perfect, but there were members from both political sides who worked hard to reach agreement on many issues. He disputed the claim that members from both parties tried to gang up on a specific group and said it called into question the integrity of members from both parties. He stated he was ready to vote now because the 2012 elections needed to move forward and added that he would vote against a motion to consider additional maps because the elections should not be delayed. He said that the Commission should not give consideration to accusations and assumptions that were unfounded or did not take into account all factors involved because this led to a delay that would disrupt elections for everyone in the State.

Commissioner Thomason stated he shared some of Commissioner Nonaka's concerns, but felt the Commission had a duty to give fair consideration to alternative views and would support a recess. Commissioner Moore stated she agreed with Commissioner Nonaka but emphasized that the Commission wanted

to make its best effort to address concerns. She said she was not happy with a delay but would vote for a two-day recess.

Chairperson Marks' motion that the maps received during testimony at the meeting be reviewed and evaluated by the Technical Committee for a report back to the Commission, seconded by Commissioner Chipchase, was approved by a vote of 8 to 1, with Commissioner Nonaka voting "No."

X. Recommendations for the Supplement to the Final Report – discussion and action, if appropriate.

Chairperson Marks asked if a delay in decision-making would affect completion of the Supplement to the Final Report, scheduled for March 30, 2012. Project Manager Rosenbrock stated that it would not delay publication. She noted that recommendations were recently submitted by Common Cause and that the Oahu Advisory Council recommendations were included in the initial Final Report published in December 2011.

XI. Adjournment

Chairperson Marks moved, seconded by Commissioner Thomason, that the meeting be recessed to have the Technical Committee review maps received today (February 29) and report back to the Commission, and that the Commission reconvene on Friday, March 2, 2012 at 2:00 pm in Conference Room 312.

Commissioner Masumoto asked Chief Election Officer Nago to explain the impact of the Commission's schedule upon the upcoming elections. Mr. Nago stated that adoption of a plan on February 29 was the date indicated by election officials as the latest that would provide adequate time to prepare for 2012 elections. He stated it there were 164 days left until the Primary Election and 87 days left until the deadline to provide polling places. He added that prior to those dates, election officials would have to designate precincts in new districts and assign voters using a process taking 11 to 12 weeks. He stated that the primary concern was notifying voters where to vote on Election Day. He noted that after every reapportionment, the district lines change and polling places change so that notification is critical. He stated the notification is critical to voters' knowing where to go and also helps election officials confirm that voters are in their location on record. He stated the State will be looking at a truncated time line that may have an effect on the ability to put on successful elections.

Chairperson Marks asked if precinct assignments were for federal, State and County elections. Chief Election Officer Nago stated that was correct, and that the elections office overlaid each set of boundary lines to start establishing

precincts. Chairperson Marks asked what the impact would be if there were changes to the plan since the Commission would be required under Chapter 92 to hold an additional meeting for approval after six days' notice. Mr. Nago stated that he is required by law to publish precincts by May 26, roughly 87 days from today, and it would take 11 to 12 weeks to precinct and assign 600,000 voters before that date.

Commissioner Nonaka asked if the delay in approving a plan would jeopardize the elections. Chief Election Officer Nago stated he did not know since this was the first time it happened. He stated that after the 2001 reapportionment, the elections office was still assigning voters in May, when they started earlier and the Primary Election was in September. He noted that the Primary Election is now in August and they were starting later to establish precincts. Chairperson Marks asked the Chief Election Officer if he was in the Office of Elections when reapportionment was done by a Court Master. Mr. Nago stated he was not. Commissioner Masumoto stated that he did not want to put the burden on elections staff with further delays but would vote in favor of the recess.

Deputy Attorney General Aburano asked that the motion to recess include the location of the meeting, Room 312, when it reconvened on March 2, 2012 at 2 pm. Chairperson Marks agreed and her motion to recess the meeting until March 2, 2012 at 2:00 pm in room 312, seconded by Commissioner Thomason, was approved by a vote of 8 to 1, with Commissioner Nonaka voting "No."

There being no further business, the meeting was recessed at 4:50 pm on February 29, 2012 until March 2, 2012 at 2 pm in Room 312.

Reconvene of Meeting on March 2, 2012

I. Call to Order

Chairperson Marks called the recessed meeting of the 2011 Reapportionment Commission to order on March 2, 2012 at 2:06 pm in Room 312.

PROCEEDINGS

II. Roll Call and Determination of a Quorum

Roll call was taken and a quorum of eight Commissioners was present. Commissioner Stone was not present.

IX. State legislative reapportionment plan, including plan for staggering of Senate terms – deliberation and decision-making.

Chairperson Marks requested that the Technical Committee report on its review of the alternative map submitted on February 29. Commissioner Chipchase stated that the Technical Committee carefully considered the alternative map submitted by Representatives Luke, Lee and others. He said the Committee evaluated the map and concluded that it was not a viable alternative in its entirety. He noted that the alternative maps had not gone out for public comment, which was a significant consideration by the Technical Committee. He stated that more significantly, the alternative plan followed non-standard redistricting practices to set boundaries, particularly for the division or combination of communities not traditionally aligned such as combining Kahala and Moiliili and the division of Sunset Beach. He added that the alternative plan followed secondary of smaller roads to achieve necessary deviations, unlike the Technical Committee plan that followed main or arterial streets. He stated that the Committee sincerely appreciated the time, effort and concerns that went into developing the alternative reviewed; however, for the foregoing and other reasons, the Technical Committee could not recommend the alternative plan to the full Commission.

Commissioner Chipchase stated that the Committee also took a critical look at its proposed map as revised after testimony at public hearings. He said the Committee checked to see whether changes would improve the proposed plan after hearing concerns raised at the previous meeting. He said it may be possible, but the Committee did not have adequate time to do that evaluation so could not say at this time.

Commissioner Chipchase asked whether the Commission would provide additional time for the Technical Committee to consider changes to improve the Committee's plan. He stated that the Committee recognized that election officials are under time pressure and challenge. He stated that the Commission had the duty to prepare the best plan possible and that the Committee proposed the chance to submit a revised map at a later meeting for changes that the Commission could and should make to improve the plan overall.

Commissioner Moore asked if there would be a further delay to allow for public input on new maps. Chairperson Marks stated the Commission had set another meeting on March 8 and could either recess today's meeting again or schedule another meeting after March 8 for final approval. Commissioner Chipchase asked how much time the Technical Committee needed to complete its work. Commissioner Nonaka stated he thought the Committee could complete its review and recommendations after working a couple of days next week and have a proposal before March 8, 2012. Commissioner Masumoto asked if another meeting should be scheduled for March 9, in case there were changes recommended to the proposed plan at the March 8 meeting. He stated he was discouraged about delays in the approval process.

Chairperson Marks stated it was possible to delay for further work but it might not give the public time to comment on the proposed plan if new changes were recommended. She added there was a value to receiving public input. Commissioner Nonaka asked if the Commission could get feedback from the Chief Election Officer. Chairperson Marks said that the Commission was already late in filing its plan and invited Chief Election Officer Nago to comment. She added that it was already taking additional time if the Commission voted on March 8 for final approval and asked if every day made a difference for the Office of Elections. Chief Election Officer Nago stated that it did. He noted that after the previous reapportionment, the staff was still completing assignment of voters to precincts in May for the Primary Election in September. He stated that the most important task was to inform the public where they would be voting and noted that starting later than usual would have an impact and might cause confusion among voters.

Commissioner Thomason asked if it was helpful that the plan was set, other than Oahu House districts. Chief Election Officer Nago replied it was not helpful in that assignment of voters was an "all or nothing" operation and could not happen without the entire plan being completed. Chairperson Marks stated that even if the plan were adopted on March 8, the elections staff probably would not be able to start until a few days later. Commissioner Takitani stated he concurred with Commissioner Masumoto that although input was important, the process had to begin moving. He said it was more crucial to prevent problems with the elections.

Commissioner Chipchase stated it was not clear that the Technical Committee would recommend changes beyond technical changes. Commissioner Hashimoto stated the Commission should have another meeting date planned in case it was necessary. Commissioner Nonaka asked counsel if maps presented at a previous meeting could be approved at the March 8 meeting. Deputy Attorney General Aburano stated that such maps could be approved at that meeting.

Commissioner Hashimoto asked if it was possible for the Commission to recess today, reconvene on Tuesday, March 6, and hold its final vote on March 8. Deputy Attorney General Aburano stated it could do so. Chairperson Marks asked if the Commission preferred to meet before or after the scheduled March 8 meeting. Discussion followed and Commissioner Chipchase stated the consensus was to meet again on March 6, 2012. Mr. Curtis stated that date was the crossover date for bills in the Legislature. Chairperson Marks announced that the Commission meeting would recess today and reconvene on March 6, 2012 at 2:00 pm in Room 329.

Commissioner Masumoto commented that he did not think changes should be made to Big Island maps. He stated that people had suggested changed to the

Senate District 1 boundary and wanted to get Puna all into one House District; however, he stated he was not in favor of re-drawing maps for the Big Island.

Commissioner Nonaka asked whether the Commission would be cutting off testimony on proposed maps. He stated it might be time to consider saying it was done with all maps and plans, other than those being done by the Technical Committee. Chairperson Marks commented that it was wise to "never say never" about the process, although she felt the practical reality was that the Commission was out of time. She said it might not be wise to cut off comments from the public. Commissioner Nonaka said he did not object.

IV. Public Testimony – Any interested person may submit data, views or arguments on any agenda item

Mr. Hairgrove, a Waikiki resident, stated he agreed with Commissioner Nonaka and others that the process had gone on too long. He stated the candidate filing deadline was coming up soon and the Primary Election was moved from September to August. He stated candidates could not do anything until maps were finished and urged the Commission to approve them at the next meeting so he could pick up nomination papers.

Mr. Palcic stated he had concerns about the alternative map. He said that he submitted an alternate plan on Monday that was an improvement over the proposed plan. He stated that the Commission's Senate plan went from Hawaii Kai around Makapuu Point. He stated such a plan was gerrymandering, was not compact, and resulted in sizeable deviations. He noted that 16 of 17 proposed Senate districts on Oahu had deviations of over 1,000 persons and seven had deviations of over 2,000 persons. He said only two districts had deviations within 10 percent. He stated that the Commission could do better, that his plan was built in four directions after looking at community lines and the number of voters per district. He said his plan resulted in only three districts with deviations over 1,000 persons and none with deviations over 2,000 persons. He acknowledged the Commission was operating under strict time constraints.

Ms. Pahinui stated she supported the alternative plan because it got Sunset Beach and Point in the same district as other North Shore communities. She said she submitted a map at the last hearing for Waimanalo to Hawaii Kai and was very serious about keeping the North Shore of Oahu intact.

Mr. Ring stated he was testifying for the third time to request and recommend that the plan keep the North Shore communities together. He stated these areas did not have significant military populations and emphasized that they should be kept together for the quality of life and unique and special challenges in the area. He said if North Shore communities are grouped with Mililani, this type of

representation would not happen and they needed someone who was familiar with the area to have control over the entire North Shore. He stated that the alternative map was closer to the Commission's standards and criteria and that respected Neighborhood Board districts, elementary school district lines, and the socio-economic integrity of the communities. He said the alternative maps would prevent accusations of gerrymandering and give higher priority to the quality of life in his area. He concluded by saying that in the process, residents are more important than politicians.

Representative Riviere stated he represented House District 46 and applauded the Commission's work and agreement to take an extra week to consider further changes to the proposed plan. He stated that it was not desirable to have maps continue to come in and that he believed the alternative map was similar to the plan approved by the Commission in September 2011 that was vetted through public hearings. He said if the alternative plan met the Commission's criteria, it should be examined seriously.

Representative Riviere said under the proposed plan, he had a mostly new district and was happy to represent the area extending to Koolauloa. He said he spent 12 hours poring over the proposed map online, looking for ways to keep the North Shore communities together in one district, which would be in the communities' interest. He urged the Commission to restore a district for the North Shore and Koolauloa and to do it correctly. Commissioner Chipchase stated the Technical Committee had looked at the Commission's map approved in September 2011 and although there were similarities, there were also important differences. Representative Riviere stated he expected some differences because a different population base was used and was not sure why the difference was so dramatic, rather than being slight changes. He said the Commission did not have to throw out the entire plan and start all over.

Mr. Curtis stated that a notice of the reconvening of the recessed meeting was not posted on the Capitol bulletin board and was not on the State's electronic calendar.

Mr. Martyn stated he was not able to see the alternative map online. He said there should be some direction, either for the Technical Committee's recommended map or the alternative map and that the Commission should keep an open mind for communities, not just those on Oahu's North Shore. He said changes would make the plan less subject to challenges and that he would like the ability to email versions of the maps in order to facilitate people's discussion of maps.

Representative Belatti thanked the Commission for taking time to pause and reconsider its plan. She said she wished to join in the comments of

Representative Riviere. She urged consideration of keeping the Tantalus-Makiki area together as they have been for 30 years with Lunalilo Freeway as a boundary. She asked that the Technical Committee provide an explanation of the starting point for the maps dated February 15, 2012. Chairperson Marks stated that the plan was multi-dimensional and that the Commission could not look at just one area. Commissioner Nonaka stated that these comments illustrated differences, even if the alternative plan also started at Hawaii Kai. He noted that the alternative plan split the community of Kuapa Isles and divided Kahala. He noted that in the February 15 maps, the Technical Committee tried to keep communities in valleys together and to keep Kahala with its historical neighbors of Diamond Head and Kaimuki.

Representative Belatti asked why Makiki and Tantalus neighborhoods were split. Commissioner Nonaka responded that the Freeway is the boundary. Representative Belatti stated that the September 2011 map used King Street as a boundary and kept all of Makiki together. She stated that the impact on House Districts 23, 24 and 25 was not consistent with standards in the State Constitution and rules. Chairperson Marks stated there were pros and cons to both proposals. She said that the growth and shift of population from East Oahu to West Oahu greatly affected the maps and there was no way to satisfy everyone, no matter how the maps were drawn. Representative Belatti stated the best way to develop a plan was to follow the rules and laws based on the Constitution.

Ms. Wood stated she was a Kailua resident and active in a political party. She stated that Senate District 25 extended from the Windward side around Makapuu for the last 10 years. She stated she had concerns regarding the Sunshine Law because she was not able to access maps on her computer. She stated it was an important decision with impact that would last for the next 10 years, so the Commission should listen to the public and do the right thing.

XI. Adjournment

Chairperson Marks moved, seconded by Commissioner Chipchase, that the meeting be recessed for the Technical Committee to review maps and report back its recommendations to the Commission, and that the Commission reconvene on Tuesday, March 6, 2012 at 2:00 pm in Conference Room 329.

Reconvene of Meeting on March 6, 2012

I. Call to Order

Chairperson Marks called the recessed meeting of the 2011 Reapportionment Commission to order on March 6, 2012 at 2:07 pm in Room 329.

PROCEEDINGS

II. Roll Call and Determination of a Quorum

Roll call was taken and a quorum of seven Commissioners was present. Commissioners Stone and Chipchase were not present.

IX. State legislative reapportionment plan, including plan for staggering of Senate terms – deliberation and decision-making.

Chairperson Marks called upon the Technical Committee to report to the Commission. Commissioner Nonaka stated that the Committee met and revised the proposed plan submitted in February for Oahu House districts only. He stated that the Committee's goal was always to draw the best plan possible, not to make it look as much like the previous plan as possible. He stated the Committee started with a clean slate and that before the 2012 extraction, the target population for districts was higher and there was less flexibility in making changes. He stated that with smaller target populations, the Committee had more leeway in developing districts and adjust deviations to better serve communities.

Commissioner Nonaka noted that the Technical Committee made adjustments that resulted in a lower deviation for Oahu House districts, lowering it from 9.94 percent to 8.89 percent by taking a second look at the plan. He said that initially he was not in favor of changes but kept an open mind about using the additional time to make improvements. He reviewed changes recommended by the Technical Committee, primarily in the urban Honolulu districts as follows:

- House Districts 17 through 19 – no changes since the Committee made changes in the February plan, including keeping Kuapa Isle together; keeping Kahala with Kaimuki; putting all of District 18 above the H-1 Freeway; putting all of District 19 below H-1 Freeway; keeping all of Diamond Head in one district.
- House District 20 – small change to adjust deviation.
 - Adjusted boundaries to smooth out irregular lines caused by census block shapes; tried to adjust configuration to make lines cleaner, following main streets, etc.
 - Kept more of Makiki together; made districts more compact in downtown Honolulu.
- House District 26 - reconfigured basically from Bethel Street to McCully Street, with adjacent district for the rest of downtown to Kalihi.
- House District 27 not much change; House District 28 remained basically Kalihi Valley.

- House Districts 31 and 32 – realigned one block to adjust deviation; noted the irregular shape of District 31 was due to the shape of census blocks in Moanalua Gardens and if not kept together in District 31, would have to put this neighborhood with Kalihi.
- Aiea and Pearl City Districts – no change
- West Oahu Districts – no change other than realigning a small area to adjust deviation.
- House Districts 45 and 47, realigned for a few blocks that were previously not included.
- House Districts 47 and 48 – moved boundary northward, adjusted for deviation.
- Kaneohe area, basically kept whole.
- Kailua – remains divided in three districts, same as previous.

Commissioner Masumoto asked what the deviation was for Oahu House districts. Project Manager Rosenbrock responded that under the March 6 plan, it was lowered from 9.9 percent to 8.89 percent.

Chairperson Marks asked if the Technical Committee was able to address the Oahu North Shore communities' request to all be placed in the same district. Commissioner Nonaka stated that the Committee gave serious consideration to the request and tried to place Waialua and Haleiwa with its neighboring communities; however, in studying the rest of the island, members found they would have to add more people to a Windward district to make up for the shift in population. He noted even with that adjustment, 700 to 800 North Shore residents would be left outside the district and it would require changes to nearly all the rest of the island of Oahu. He added that the only other way to do it would be to create a House district for Hawaii Kai, Waimanalo and Lanikai, which would further disrupt Kailua and have greater impact on other communities throughout the island.

Commissioner Moore asked if precincts would be moved from one Senate district to another with the changes in House districts. Commissioner Nonaka stated that the Senate boundaries were not changed and he did not know what would happen to precincts until they did an overlay of House and Senate districts.

Chairperson Marks commented that there was considerable discussion about keeping the status quo in districts, but she did not believe that was the purpose of reapportionment and redistricting. She stated the process was intended to reflect the population changes over 10 years, and recognized that change can be difficult. She stated that the Commission's job was to manage a plan for the change and movement in population, and that the job was challenging. Commissioner Nonaka said the Commission was criticized for placing voters in new districts where they had not been before, but preventing such movement should not be the goal of reapportionment. He said he felt the goal was to

account for population growth and that if an incumbent's district experienced a loss of population, it would affect the outcome of that district. He said the guidelines did not provide for partisan considerations of district population and that having new voters in a district was not inherently a bad thing. He said that the Commission's plan tried to reflect changes in population and it was a flawed premise that having voters in a different district was a negative result.

Chairperson Marks stated that it was necessary to allow some time for production of documents before final approval and suggested that the Commission consider two options: (1) to adjourn today's meeting and come back for a final vote at the scheduled March 8 meeting, or (2) to give the public some time to review the maps proposed on March 6, cancel the March 8 meeting, and hold the final vote the following Monday on March 12, 2012. Following discussion, the Commission's consensus was to hold the final vote at the meeting scheduled on March 8, 2012.

Commissioner Masumoto suggested that the Commission take a break for those present to view the maps. Commissioner Thomason stated that although the March 6 plan was more polished than the February plan, some people would still complain if their specific areas were not changed as they wished. Chairperson Marks noted that some concerns in Kahaluu and Makiki had been addressed and Commissioner Nonaka added that all town districts had changed.

IV. Public Testimony – Any interested person may submit data, views or arguments on any agenda item

Ms. Mason commented on a proposed issue for the Supplement to the Commission's Final Report, namely, the problems with the population base. She stated that their initial Final Report addressed the issue but did not cover all her concerns. She noted that the 2010 Census counted 1,360,301 persons at their usual residence in Hawaii, and of those, 108,767 were extracted. She stated that Kansas, the only other state that does an extraction for legislative reapportionment, extracted one-half of one percent, while Hawaii extracted eight percent of its census population. She stated it was not just or right, and that the unequal distribution of extraction resulted in unequal representation. She said this raised equal protection issues since the 14th Amendment to the U. S. Constitution guarantees equal representation that is not available for the Hawaii Legislature. She stated that she compared actual populations for the proposed districts and found great disparity among districts. She said this pattern of over-representation and under-representation was exacerbated because members of the military and their families were excluded and had no representation in any state legislature. She emphasized that districts should be of approximately equal size and that it was imperative to right this injustice. Chairperson Marks commented that Ms. Mason's testimony points to the challenges the Commission

faced from the beginning and, since the Hawaii Supreme Court has made its decision, the Commission is trying its best to comply. She added that if the system were changed as Ms. Mason suggested for all districts being approximately equal, it was likely to lead to canoe districts, and that previous case law tried to address ways to achieve a balance.

Ms. Wood asked if the Technical Committee was able to create districts where incumbents did not have to run against each other. Commissioner Nonaka stated that was not considered by the Committee. Chairperson Marks stated she believed some people would object to changes, no matter how the plan was changed. Ms. Wood stated that she used a map to identify districts with large military populations and compared them with other districts. She said she came up with roughly the same population in Senate Districts 8 and 24. She added that in 2014, she planned to pursue changes in the Legislature to base reapportionment on the Census population.

V. Input from Advisory Councils - Discussion and action, if appropriate

On behalf of the Hawaii Island Advisory Council, Mr. Arakaki reported that the Council held its last meeting on February 13 and thanked the Commission because it appeared that the Council's recommendations were followed.

Maui, Kauai and Oahu Advisory Councils – No report.

XI. Adjournment

Chairperson Marks announced that the final vote on the 2011 legislative reapportionment plan would be on Thursday, March 8, 2012 in Conference Room 329 of the State Capitol.

Commissioner Moore stated she would be travelling and would not be able to attend the March 8 meeting. She asked if she could offer her remarks to be placed on the record at this time. Without objection, it was so ordered by the Chair and Commissioner Moore made the following statement:

"I was honored to be asked to serve on Hawaii's Reapportionment Commission because as an immigrant to the United States, I especially value the representative form of government and the democratic process which drives it and I was pleased to be part of the process to determine the representative districts for our residents for the next 10 years. While serving as a Commissioner, I have been very mindful of the Affirmation Oath I signed in which I pledged that I would support and defend the constitution and laws of the United States of America and the constitution and laws of the State of Hawaii while serving and discharging my duties as a Commissioner."

"Article 1, Section 2 of the U.S. Constitution mandates that a census be conducted every ten years to apportion seats in the U.S. House of Representatives so that all residents in the US have fair and equal representation. Through the years the Federal Courts have played a major role in the redistricting process in the US. The equal protection clause of the 14th Amendment to the US Constitution holds that both houses of a bicameral state legislature be appointed substantially on a population basis and districts constructed as nearly of equal population as practicable with a maximum population deviation under 10% being the constitutional requirement."

"The issue is not representation for those that vote (as was the previous basis for State legislative representation in Hawaii), but proportionate presentation, "one person, one vote" for all."

"I am grateful that I have representation in the State legislature, as filling out my Census Form allowed me to be counted for that representation, but it saddens me that Hawaii has for the last 20 years, denied representation to about 10% of my fellow residents – active duty military and their dependents and our State Supreme Court has by their recent ruling mandated that this year (and so for the next 10 years) active duty military and their dependents will continue to be not counted in the basis for apportionment in Hawaii and so not be represented. And these fellow residents are not represented in any other state. So, if they have issues, such as the military that send their children to Red Hill Elementary School are experiencing right now who should they turn to – a representative in the state from which they might have come some years prior?"

"Removing almost 100,000 people from the Oahu population base and thus denying these residents representation benefited certain other residents in another part of the state. It seems that those residents are more deserving of representation."

"When the commission first started its deliberations the inequality of not counting certain members of our community, specifically the military and their dependents was obvious to most commissioners and by a vote of 8 to 1 it was decided that the redistricting process would proceed using the total census count, which included all that counted Hawaii as their usual place of residence on April 1, 2010. Unfortunately, with immediate threats of law suits the initial good resolve of the commissioners evaporated and resulted in first voting for a token extraction of military in barracks (which incidentally, the Census revealed were inhabited by over 70% of ethnic minorities – blacks, Hispanics and native Americans) and now with the recent mandate from the State Supreme Court to exclude almost 100,000 military and their dependents."

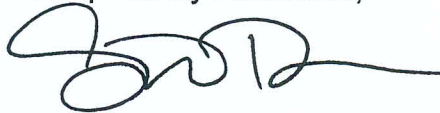
"While respecting each commissioner and acknowledging the extraordinary amount of time each of them has given to this effort – especially the Technical Committee and our Chair as well as all the staff and while I understand and acknowledge the authority of the Supreme Court in this matter I nevertheless cannot in good conscience agree with the Court's decision and will vote against this plan."

Chairperson Marks moved, seconded by Commissioner Nonaka, that the Commission accept the proposed plan as presented by the Technical Committee and place it on the agenda for a final vote at the March 8, 2012 meeting. The motion was approved by a vote of 6 to 1, with Commissioner Moore voting "No."

Chairperson Marks moved, seconded by Commissioner Masumoto, that the meeting be adjourned. The motion was approved without objection from the seven Commissioners present.

There being no further business, the meeting was adjourned at 2:55 pm on March 6, 2012.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'S. Nago', with a long horizontal line extending to the right.

Scott T. Nago
Chief Election Officer
Secretary to the Reapportionment Commission

*Melissa Vomvoris
95-203 Kahiku Place
Mililani, Hawaii 96789*

March 8, 2012

State of Hawaii Reapportionment Commission
State Capitol, Room 445
415 S. Beretania St.
Honolulu, Hawaii 96813

RE: Reapportionment Plan 3-8-12 for State House Legislative Districts (Proposed)

Dear Reapportionment Commissioners:

I write in strong opposition of the proposed reapportionment maps recently revised on March 6, 2012. The public had less than 24 hours to view the new maps from the time they were posted online to the time of this meeting. This clearly gives the public absolutely no time to properly vet the new maps.

In looking at the house district lines for the Mililani area, you have conveniently split Mililani up in to 3 different districts. House district 45 has parts of Mililani, Wheeler Army Air Field, Schofield, parts of Waialua all the way to the Kaena point.

Accordingly, the population base noted for HD45 on the Mar 6 maps is 24,133. How many of these are actually "permanent residents" being this new district encompasses two military bases? The commissions extracted between 1001-6000 non-residents from Schofield and between 251-1000 non residents from Wheeler. Then another extraction was taken in Mililani of between 251-1000 non residents and between 251-1000 non residents from Waialua area. All of which lie within the current proposed HD45. So geographically where are the 24,133 that are left?

Another criteria is "where practicable, representative districts shall be wholly included within senatorial districts" however HD45 lies in 3 different senatorial districts. How is this practicable?

Also, "Where practicable, submergence of an area in a larger district wherein substantially different socio-economic interests predominate shall be avoided", however, there are 3 significantly different socio-economic interests, and the 3 communities differ completely and share no common interests. For example: in their capital improvement needs, schools, maintenance.....land use, etc.

The word "practicable" according to Merriam-Webster means: capable of being done or accomplished. There is no justification provided for the impracticability evidenced by the current proposal.

Another significant criteria that was not followed was compactness. HD45 spreads across a vast area that is geographically connected by single roads, going over mountains and other geographic features that do not make for a "neighborhood" sense.

I ask that you please reconsider the house district lines in the Mililani area.

Thank you,

A handwritten signature in black ink, appearing to read "Melissa Vomvoris". The signature is fluid and cursive, with the first name "Melissa" and last name "Vomvoris" clearly distinguishable.

Melissa Vomvoris

HAWAII REAPPORTIONMENT COMMISSION

SENATE STAGGERED TERMS CALCULATIONS (8 Mar 2012)

All Elections

| FROM (old) TO (new) | 2010 Pop | 2010 Senatorial Election Pop |
|-----------------------------|--------------|---------------------------------|
| Senate 1 to Senate 1 | 31010 | 0 |
| Senate 2 to Senate 1 | 13656 | 13656 |
| 2012 Senate 1 total | 44666 | 13656 |
| Senate 2 to Senate 2 | 46808 | 46808 |
| 2012 Senate 2 total | 46808 | 46808 |
| Senate 2 to Senate 3 | 6855 | 6855 |
| Senate 3 to Senate 3 | 40363 | 0 |
| 2012 Senate 3 total | 47218 | 6855 |
| Senate 1 to Senate 4 | 23824 | 0 |
| Senate 3 to Senate 4 | 21080 | 0 |
| 2012 Senate 4 total | 44904 | 0 |
| Senate 4 to Senate 5 | 53833 | 53833 |
| 2012 Senate 5 total | 53833 | 53833 |
| Senate 5 to Senate 6 | 49246 | 0 |
| 2012 Senate 6 total | 49246 | 0 |
| Senate 4 to Senate 7 | 1622 | 1622 |
| Senate 5 to Senate 7 | 101 | 0 |
| Senate 6 to Senate 7 | 49742 | 0 |
| 2012 Senate 7 total | 51465 | 1622 |
| Senate 7 to Senate 8 | 66805 | 66805 |
| 2012 Senate 8 total | 66805 | 66805 |
| Senate 8 to Senate 9 | 44245 | 44245 |
| Senate 9 to Senate 9 | 5655 | 5655 |
| Senate 25 to Senate 9 | 1422 | 1422 |
| 2012 Senate 9 total | 51322 | 51322 |
| Senate 9 to Senate 10 | 39278 | 39278 |
| Senate 10 to Senate 10 | 12467 | 12467 |
| 2012 Senate 10 total | 51745 | 51745 |

HAWAII REAPPORTIONMENT COMMISSION

SENATE STAGGERED TERMS CALCULATIONS (8 Mar 2012)

All Elections

| FROM (old) TO (new) | 2010 Pop | 2010 Senatorial Election Pop |
|-----------------------------|--------------|---------------------------------|
| Senate 10 to Senate 11 | 23000 | 23000 |
| Senate 11 to Senate 11 | 27870 | 27870 |
| Senate 12 to Senate 11 | 1030 | 0 |
| 2012 Senate 11 total | 51900 | 50870 |
| Senate 10 to Senate 12 | 7787 | 7787 |
| Senate 11 to Senate 12 | 14887 | 14887 |
| Senate 12 to Senate 12 | 29521 | 0 |
| 2012 Senate 12 total | 52195 | 22674 |
| Senate 11 to Senate 13 | 3550 | 3550 |
| Senate 12 to Senate 13 | 18782 | 0 |
| Senate 13 to Senate 13 | 28874 | 28874 |
| 2012 Senate 13 total | 51206 | 32424 |
| Senate 13 to Senate 14 | 5251 | 5251 |
| Senate 14 to Senate 14 | 41117 | 41117 |
| Senate 15 to Senate 14 | 2018 | 2018 |
| 2012 Senate 14 total | 48386 | 48386 |
| Senate 13 to Senate 15 | 10857 | 10857 |
| Senate 14 to Senate 15 | 2801 | 2801 |
| Senate 15 to Senate 15 | 38432 | 38432 |
| 2012 Senate 15 total | 52090 | 52090 |
| Senate 15 to Senate 16 | 10637 | 10637 |
| Senate 16 to Senate 16 | 36270 | 0 |
| Senate 18 to Senate 16 | 1871 | 0 |
| 2012 Senate 16 total | 48778 | 10637 |
| Senate 16 to Senate 17 | 6786 | 0 |
| Senate 18 to Senate 17 | 40943 | 0 |
| 2012 Senate 17 total | 47729 | 0 |
| Senate 16 to Senate 18 | 263 | 0 |
| Senate 17 to Senate 18 | 31821 | 0 |
| Senate 19 to Senate 18 | 19605 | 19605 |
| 2012 Senate 18 total | 51689 | 19605 |

HAWAII REAPPORTIONMENT COMMISSION

SENATE STAGGERED TERMS CALCULATIONS (8 Mar 2012)

All Elections

| FROM (2010) TO (2011) | 2010 Pop | 2010 Senatorial Election Pop |
|-----------------------------|--------------|---------------------------------|
| Senate 20 to Senate 19 | 47450 | 47450 |
| 2012 Senate 19 total | 47450 | 47450 |
| Senate 18 to Senate 20 | 1691 | 0 |
| Senate 19 to Senate 20 | 34697 | 34697 |
| Senate 20 to Senate 20 | 11168 | 11168 |
| 2012 Senate 20 total | 47556 | 45865 |
| Senate 19 to Senate 21 | 1826 | 1826 |
| Senate 21 to Senate 21 | 46485 | 0 |
| 2012 Senate 21 total | 48311 | 1826 |
| Senate 17 to Senate 22 | 13405 | 0 |
| Senate 22 to Senate 22 | 34324 | 34324 |
| 2012 Senate 22 total | 47729 | 34324 |
| Senate 22 to Senate 23 | 23568 | 23568 |
| Senate 23 to Senate 23 | 24425 | 0 |
| 2012 Senate 23 total | 47993 | 23568 |
| Senate 23 to Senate 24 | 19064 | 0 |
| Senate 24 to Senate 24 | 31989 | 31989 |
| 2012 Senate 24 total | 51053 | 31989 |
| Senate 24 to Senate 25 | 9052 | 9052 |
| Senate 25 to Senate 25 | 40405 | 40405 |
| 2012 Senate 25 total | 49457 | 49457 |

The 2011 Legislative
Reapportionment Plan
was adopted by the
2011 Hawaii
Reapportionment
Commission on
March 8, 2012.

Adopted maps can be viewed in the Online
Maps section of this website:

<http://hawaii.gov/elections/reapportionment>